

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USDC Docket Number : 05-cv-11433

Kashner Davidson Securities Corp., et al

v.

Steven Mscisz, et al

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**CLERK'S CERTIFICATE**

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

1-32

and contained in I-II Volume(s) are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 12/22/2007.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on February 1, 2007.

By:



Sarah A. Thornton, Clerk of Court

Receipt of the documents in the above entitled case is hereby acknowledged this date: 2/1/07.

D. Barckard  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:05-cv-11433-JLT**

Kashner Davidson Securities Corporation v. Mscisz et al  
Assigned to: Judge Joseph L. Tauro  
Cause: 28:1332 - Diversity: Securities & Exchange  
Commiss

Date Filed: 07/07/2005  
Jury Demand: Defendant  
Nature of Suit: 850  
Securities/Commodities  
Jurisdiction: Federal Question

**Plaintiff**

**Kashner Davidson Securities  
Corporation**

represented by **Howard M. Smith**  
Newman & Smith  
One Gateway Center  
Suite 350  
Newton, MA 02458  
617-965-9900  
Fax: 617-965-9697  
Email: hms@hmsmith.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Marc J. Ross**  
Sichenzia Ross Friedman Ference LLP,  
1065 Avenue of the Americas, 21 floor  
New York, NY 10018  
212-930-9700  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Richard J. Babnick, Jr.**  
Sichenzia Ross Friedman Ference LLP,  
1065 Avenue of the Americas, 21 Floor  
New York, NY 10018  
212-930-9700  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Victor L. Kashner**

represented by **Marc J. Ross**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Richard J. Babnick, Jr.**  
(See above for address)

*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Howard M. Smith**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Matthew Meister**

represented by **Marc J. Ross**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Richard J. Babnick, Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Howard M. Smith**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Timothy Varchetto**

represented by **Marc J. Ross**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Richard J. Babnick, Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Howard M. Smith**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Steven Mscisz**

represented by **William P. Corbett, Jr.**  
The Corbett Law Firm, A Professional  
Corporation  
The Edison, Suite 326  
85 Exchange Street  
Lynn, MA 01901-1429  
781-596-9300  
Fax: 781-596-9302  
Email: [wpc@bostonbarristers.com](mailto:wpc@bostonbarristers.com)

*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Mark Mscisz**

represented by **William P. Corbett, Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Lynda Mscisz**

represented by **William P. Corbett, Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter Claimant**

**Lynda Mscisz**

represented by **William P. Corbett, Jr.**  
The Corbett Law Firm, A Professional  
Corporation  
85 Exchange Street  
Lynn, MA 01901  
781-596-9300  
Fax: 781-596-9302  
Email: wpc@bostonbarristers.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter Claimant**

**Steven Mscisz**

represented by **William P. Corbett, Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter Claimant**

**Mark Mscisz**

represented by **William P. Corbett, Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Counter Defendant**

**Kashner Davidson Securities  
Corporation**

represented by **Howard M. Smith**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Marc J. Ross**  
(See above for address)

*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Richard J. Babnick, Jr.**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter Claimant**

**Lynda Mscisz**

represented by **William P. Corbett, Jr.**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter Claimant**

**Steven Mscisz**

represented by **William P. Corbett, Jr.**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter Claimant**

**Mark Mscisz**

represented by **William P. Corbett, Jr.**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Counter Defendant**

**Kashner Davidson Securities  
 Corporation**

**Counter Defendant**

**Victor L. Kashner**

**Counter Defendant**

**Matthew Meister**

**Counter Defendant**











**Timothy Varchetto**

Date Filed	#	Docket Text
07/07/2005	1	NOTICE OF REMOVAL by Mark Mscisz from Suffolk County Superior Court, case number SUCV2005-2543. \$ 250, receipt number 65444, filed by Mark Mscisz. (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Civil Cover Sheet)(Abaid, Kim) (Entered: 07/11/2005)

07/07/2005		If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (Abaid, Kim) (Entered: 07/11/2005)
07/07/2005	2	NOTICE of Appearance by William P. Corbett, Jr on behalf of Lynda Mscisz, Steven Mscisz, Mark Mscisz (Abaid, Kim) (Entered: 07/11/2005)
07/11/2005	3	NOTICE by Lynda Mscisz, Steven Mscisz re 1 Notice of Removal <i>Notice of Assent to Removal</i> (Corbett, William) (Entered: 07/11/2005)
07/12/2005	4	NOTICE by Lynda Mscisz, Steven Mscisz, Mark Mscisz re 1 Notice of Removal <i>Notice of Additional Grounds for Removal</i> (Corbett, William) (Entered: 07/12/2005)
07/14/2005	5	ANSWER to Complaint with Jury Demand, COUNTERCLAIM against Kashner Davidson Securities Corporation by Lynda Mscisz, Steven Mscisz, Mark Mscisz.(Corbett, William) (Entered: 07/14/2005)
07/18/2005	6	STIPULATION by Lynda Mscisz, Lynda Mscisz, Steven Mscisz, Mark Mscisz, Kashner Davidson Securities Corporation, Kashner Davidson Securities Corporation, Steven Mscisz, Mark Mscisz. (Corbett, William) (Entered: 07/18/2005)
07/27/2005	7	AMENDED COMPLAINT to Modify and Confirm an Arbitration Award against Lynda Mscisz, Steven Mscisz, Mark Mscisz, filed by Victor L. Kashner, Matthew Meister, Timothy Varchetto, Kashner Davidson Securities Corporation. (Attachments: # (1) Exhibit A# (2) Exhibit B) (Abaid, Kim) Additional attachment(s) added on 7/28/2005 (Abaid, Kim). (Entered: 07/27/2005)
07/27/2005	8	MOTION for Leave to Appear Pro Hac Vice by Marc J. Ross and Richard J. Babnick, Jr. by Victor L. Kashner, Matthew Meister, Timothy Varchetto, Kashner Davidson Securities Corporation. (Attachments: # 1 Exhibit A# 2 Exhibit A 2)(Abaid, Kim) (Entered: 07/27/2005)
07/28/2005		Notice of correction to docket made by Court staff. Correction: Docket Entry 7 corrected because: Replaced Exhibit A with redacted version. (Abaid, Kim) (Entered: 07/28/2005)
07/28/2005	9	CORPORATE DISCLOSURE STATEMENT by Kashner Davidson Securities Corporation. (Smith, Howard) Additional attachment(s) added on 8/2/2005 (Abaid, Kim). (Entered: 07/28/2005)
07/28/2005		Filing fee: \$ 100., receipt number 65897 regarding 8 Motion for Pro Hac Vice (Abaid, Kim) (Entered: 07/28/2005)
07/28/2005		Judge Joseph L. Tauro : Electronic ORDER entered granting 8 Motion for Leave to Appear Pro Hac Vice Added Marc J. Ross and Richard J. Babnick, Jr for Matthew Meister; Timothy Varchetto; Kashner Davidson Securities Corporation; Kashner Davidson Securities Corporation and Victor L. Kashner (Abaid, Kim) (Entered: 07/28/2005)
07/28/2005	10	STATE COURT Record Filed. (Attachments: # 1 Complaint# 2 Docket



		Sheet)(Abaid, Kim) (Entered: 07/29/2005)
08/08/2005	<a href="#"><u>11</u></a>	ANSWER to Amended Complaint, COUNTERCLAIM against Kashner Davidson Securities Corporation, Victor L. Kashner, Matthew Meister, Timothy Varchetto. Kashner Davidson Securities Corporation by Lynda Mscisz, Lynda Mscisz, Steven Mscisz, Mark Mscisz, Steven Mscisz, Mark Mscisz.(Corbett, William) (Entered: 08/08/2005)
08/29/2005	<a href="#"><u>12</u></a>	NOTICE of Scheduling Conference Scheduling Conference set for 10/4/2005 11:00 AM in Courtroom 20 before Judge Joseph L. Tauro. (Abaid, Kim) (Entered: 08/29/2005)
08/29/2005	<a href="#"><u>13</u></a>	Judge Joseph L. Tauro : RULE 26 DISCOVERY ORDER entered. (Abaid, Kim) (Entered: 08/29/2005)
08/29/2005	<a href="#"><u>14</u></a>	ANSWER to Counterclaim, ANSWER to Counterclaim by <i>Victor Kashner, Mathew Meister, Timoty Varchetto</i> and by Kashner Davidson Securities Corporation. (Attachments: # 1 Exhibit memorandum# 2 Exhibit deposition transcript# 3 Errata statement of account)(Smith, Howard) (Entered: 08/29/2005)
09/16/2005	<a href="#"><u>15</u></a>	MOTION to Stay <i>and for Protective Order</i> by Lynda Mscisz, Lynda Mscisz, Steven Mscisz, Mark Mscisz, Lynda Mscisz, Steven Mscisz, Steven Mscisz, Mark Mscisz, Mark Mscisz.(Corbett, William) (Entered: 09/16/2005)
09/16/2005	<a href="#"><u>16</u></a>	Statement of Reasons in Support re <u>15</u> MOTION to Stay <i>and for Protective Order</i> filed by Lynda Mscisz, Lynda Mscisz, Steven Mscisz, Mark Mscisz, Lynda Mscisz, Steven Mscisz, Steven Mscisz, Mark Mscisz, Mark Mscisz. (Attachments: # 1 Exhibit Order Denying Injunction Pending Appeal# 2 Exhibit Order Denying Motion to Dismiss Appeal# 3 Exhibit Appellants' Brief# 4 Exhibit Appellees' Brief)(Corbett, William) Modified on 12/27/2006 (Abaid, Kim). (Entered: 09/16/2005)
09/27/2005	<a href="#"><u>17</u></a>	NOTICE BY THE COURT: the scheduling conference set for October 4, 2005 is cancelled, it is re-set for: to be advised.(Lovett, Zita) (Entered: 09/27/2005)
09/29/2005	<a href="#"><u>17</u></a>	Supplemental MEMORANDUM in Support re <u>15</u> MOTION to Stay <i>and for Protective Order</i> filed by Lynda Mscisz, Lynda Mscisz, Steven Mscisz, Mark Mscisz, Matthew Meister, Lynda Mscisz, Steven Mscisz, Steven Mscisz, Mark Mscisz, Matthew Meister, Mark Mscisz. (Corbett, William) (Entered: 09/29/2005)
09/30/2005	<a href="#"><u>18</u></a>	Opposition re <u>15</u> MOTION to Stay <i>and for Protective Order</i> filed by Kashner Davidson Securities Corporation. (Attachments: # 1 Exhibit) (Smith, Howard) (Entered: 09/30/2005)
11/02/2005	<a href="#"><u>19</u></a>	Judge Joseph L. Tauro : Electronic ORDER entered denying <u>15</u> Motion to Stay and for Protective Order. (Abaid, Kim) (Entered: 11/03/2005)
04/05/2006	<a href="#"><u>19</u></a>	MOTION for Leave to File Excess Pages by Vietor L. Kashner, Matthew Meister, Timothy Varchetto, Kashner Davidson Securities Corporation. (Abaid, Kim) (Entered: 04/06/2006)

04/06/2006		Notice of correction to docket made by Court staff. Correction: Docket Entry 19 corrected because: Document was previously filed as a letter. Should be filed as a motion. Removed and refiled to correct .(Abaid, Kim) (Entered: 04/06/2006)
04/06/2006		Judge Joseph L. Tauro : Electronic ORDER entered granting 19 Motion for Leave to File Excess Pages (Abaid, Kim) (Entered: 04/06/2006)
05/15/2006	 20	MOTION Modification and Confirmation of Arbitration Award and Entry of Judgment by Kashner Davidson Securities Corporation. (Attachments: # 1 Affidavit affidavit r. babnick esq# 2 Exhibit # 3 Exhibit # 4 # 5 Exhibit # 6 # 7)(Smith, Howard) (Entered: 05/15/2006)
06/04/2006	 21	MOTION for Extension of Time to 06/09/2006 to File Response/Reply as to 20 MOTION Modification and Confirmation of Arbitration Award and Entry of Judgment & for <i>Enlargement of Page Limit for Opposition</i> by all defendants. (Attachments: # 1 Exhibit Exhibit A (original motion; not filed)# 2 Exhibit Exhibit B (e-mail))(Corbett, William) (Entered: 06/04/2006)
06/10/2006	 22	Opposition re 20 MOTION Modification and Confirmation of Arbitration Award and Entry of Judgment filed by all defendants. (Corbett, William) (Entered: 06/10/2006)
06/10/2006	 23	AFFIDAVIT in Opposition re 20 MOTION Modification and Confirmation of Arbitration Award and Entry of Judgment by <i>William P. Corbett, Jr.</i> filed by all defendants. (Attachments: # (1) Exhibit 3# (2) Exhibit 4# 3 Exhibit 5# 4 Exhibit 6# 5 Exhibit 7# 6 Exhibit 8# 7 Exhibit 9# 8 Exhibit 10# 9 Exhibit 13# 10 Exhibit 14# (11) Exhibit 15# (12) Exhibit 16a# 13 Exhibit 16b# 14 Exhibit 17# 15 Exhibit 18# 16 Exhibit 19# 17 Exhibit 20# 18 Exhibit 21# 19 Exhibit 22# 20 Exhibit 23# 21 Exhibit 24# 22 Exhibit 25# 23 Exhibit 1 (Redacted)# 24 Exhibit 2 (Redacted)# 25 Exhibit 11 (Redacted)# 26 Exhibit 12 (Redacted)) (Corbett, William) Additional attachment(s) added on 1/25/2007 (Abaid, Kim). Modified on 1/25/2007 (Abaid, Kim). (Entered: 06/10/2006)
06/15/2006		Judge Joseph L. Tauro : Electronic ORDER entered granting 21 Motion for Enlargement of Page Limit AND Motion for Extension of Time to File Response/Reply re 20 MOTION Modification and Confirmation of Arbitration Award and Entry of Judgment Responses due by 6/9/2006 (Abaid, Kim) (Entered: 06/15/2006)
09/21/2006	 24	Notice of Pending Motion by all plaintiffs.(Smith, Howard) Modified on 9/22/2006 (Abaid, Kim). (Entered: 09/21/2006)
09/21/2006		Motions terminated: 24 Notice of Pending Motion filed by Victor L. Kashner,, Kashner Davidson Securities Corporation,, Matthew Meister,, Timothy Varchetto,. *** Document is not an actual motion, it is a notice of pending motions. Changed docket text to reflect actual document and termed from pending motion list. *** (Abaid, Kim) (Entered: 09/22/2006)
11/27/2006	 25	Judge Joseph L. Tauro : ORDER entered 20 Motion to Modify and



		Confirm Arbitration Award and Entry of Judgment Thereon is ALLOWED in part and DENIED in part. SEE ORDER FOR FULL DETAILS. (Abaid, Kim) (Entered: 11/27/2006)
11/29/2006	<u>26</u>	Proposed Document(s) submitted by Kashner Davidson Securities Corporation. Document received: Judgment. (Smith, Howard) (Entered: 11/29/2006)
11/30/2006	<u>27</u>	Judge Joseph L. Tauro : ORDER entered. JUDGMENT in favor of the Plaintiffs against the Defendants(Abaid, Kim) (Entered: 12/05/2006)
12/22/2006	<u>28</u>	NOTICE OF APPEAL as to 27 Judgment by Lynda Mscisz, Lynda Mscisz, Steven Mscisz, Mark Mscisz, Lynda Mscisz, Steven Mscisz, Steven Mscisz, Mark Mscisz, Mark Mscisz. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 1/11/2007. (Corbett, William) (Entered: 12/22/2006)
12/28/2006	<u>29</u>	Letter/request (non-motion) from Howard M. Smith. (Attachments: # <u>1</u> Supplement draft execution)(Smith, Howard) (Entered: 12/28/2006)
12/28/2006	<u>30</u>	MOTION to Stay re 27 Judgment, 29 Letter/request (non-motion), 28 Notice of Appeal, by Lynda Mscisz, Lynda Mscisz, Steven Mscisz, Mark Mscisz, Lynda Mscisz, Steven Mscisz, Steven Mscisz, Mark Mscisz, Mark Mscisz.(Corbett, William) (Entered: 12/28/2006)
12/29/2006	<u>31</u>	Filing fee: \$ 455, receipt number 77299 for <u>28</u> Notice of Appeal, (Abaid, Kim) (Entered: 01/09/2007)
01/03/2007	<u>31</u>	Supersedeas BOND in the amount of \$524,306.53 posted by Lynda Mscisz, Steven Mscisz, Mark Mscisz (Abaid, Kim) Modified on 1/4/2007 (Abaid, Kim). (Entered: 01/03/2007)
01/05/2007	<u>32</u>	MOTION Approval of Supersedeas Bond re 31 Bond by Lynda Mscisz, Lynda Mscisz, Steven Mscisz, Mark Mscisz, Lynda Mscisz, Steven Mscisz, Steven Mscisz, Mark Mscisz, Mark Mscisz.(Corbett, William) (Entered: 01/05/2007)
01/10/2007	<u>33</u>	Judge Joseph L. Tauro : Electronic ORDER entered <u>30</u> Motion to Stay is DENIED AS MOOT, <u>32</u> Motion for Approval of Supersedeas Bond is ALLOWED. (Abaid, Kim) (Entered: 01/10/2007)